The court concludes: "So although we are of opinion that a landlord, under contract to repair, may under some circumstances be liable for damages, . . . his negligence must be clearly established as the foundation for such liability." What are those circumstances, it does not point out, and we gather from the opinion that they must be of a very unusual nature.

The case is clearly calculated to make Maryland landlords sleep comfortably—but it is very far from being the law of the land.

See 6 Va. Law Register, 799; 7 Id. 357, 436, 727.

LIBEL—FRAUDULENT BUSINESS—MAGNETIC HEALING—EVIDENCE—PROVINCE OF COURT AND JURY.—Plaintiffs, who alleged that they were engaged in the business of magnetic healing, who were without the pretence of scientific learning and who possessed only to a limited degree even the rudiments of education, but who professed to possess miraculous power to heal all diseases of patients thousands of miles away and to exert the same powers that Jesus Christ exerted to cure disease, brought suit for libel against defendant, who had published in a newspaper an article in which plaintiffs were called "miserable charlatans," and in which statements were made concerning their business which they alleged to be false, libelous and malicious. Upon the trial the court granted an instruction submitting to the jury the question whether the plaintiffs' business was legitimate, and in weighing the question the jury was to consider the results as disclosed by the evidence, and, on the whole, if the results had been beneficial, the business was not to be adjudged a fraud. Judgment was rendered upon a verdict for plaintiffs. *Held*, that the instruction was erroneous. *Weltmer* v. *Bishop* (Mo.), 71 S. W. 167. Distinguishing *School of Magnetic Healing* v. *McAnnulty*, 23 Sup. Ct. 33, 47 L. ed.

Per Valliant, J.:

"Courts are not such slaves to the forms of procedure as to surrender their own intelligence to an array of witnesses testifying to an impossibility. They are not required to give credence to a statement that would falsify well-known laws of nature, though a cloud of witnesses swear to it. We recognize that in the realm of science much is yet undiscovered, and especially is this so in the science relating to diseases of the human system and their treatment. Different schools of medicine contend with each other on vital questions, and, as long as the contest continues with reason, it cannot be said that the right of either, as above the other, has been demonstrated. But if either school would convince us that it is right, or even that it is entitled to be recognized as a contestant, it must appeal to our intelligence, and discuss the subject on the basis of natural laws. If it cannot be discussed on that basis there is nothing to discuss. If a man come into court claiming to possess supernatural powers, and bring with him witnesses who swear he has done for them that which we know is impossible, we are not required to believe such evidence. Here was a woman, who perhaps believed what she said, who testified that by a mental process of one of these plaintiffs, transmitted to her through a letter several hundred miles away, she was entirely cured of a cancer of the breast. The fact that the plaintiff who was supposed to have transmitted the influence from Nevada was not there at the time does not add to the absurdity of the statement. And the testimony of other witnesses, perhaps also sincere, to the

effect that they were cured of otherwise incurable diseases by such mysterious process, can have absolutely no lodgment in our intelligence. Under the instruction above quoted, the jury were directed to heed such evidence, and if, on the whole, it showed that good had resulted to the community from the practices of the plaintiffs, the jury were to find that the business was a lawful one. It was an instruction, in effect, directing the jury to surrender their own intelligence to the preponderance of statements of witnesses, irrational though such statements were. Under the conceded facts, there was no evidence to justify the submission of the case to the jury, and the peremptory instruction for a verdict for the defendant should have been given. If there was anything in the plaintiffs' business, which they call 'Magnetic Healing,' that entitled it to the protection of the law, and which was not perceptible to the uninstructed, the burden was on them to show the rationale of it; and, failing to do so, the court should close its door against them. *Richards* v. *Judd*, 15 Abb. Prac. (N. S.) 184. The law of libel is not designed to shield one in the practice of an illegal business. 18 Am. & Eng. Enc. Law (2d ed.) 947; *Johnson* v. *Simonton*, 43 Col. 242; *Perry* v. *Man*, 1 R. I. 263; Starkie, Sland. & L. (5th ed.) 522. The business of the plaintiffs, as shown by their own evidence, is of such a character as that it is not entitled to protection under the law of libel."

The foregoing case will be read with interest in connection with the Harvey bill, at this writing pending in the General Assembly of Virginia, to require all persons desirous of practicing the healing science to pass an examination before the State Medical Board.